IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAVID GEVAS, B 41175	)	
	)	
Plaintiff,	)	
v.	)	No. 08 C 3074
	)	
TERRY McCANN, et al.,	)	Judge Guzman
	)	
Defendants.	)	

PLAINTIFF'S MOTION IN LIMINE NO. 5

NOW COMES the Plaintiff, by his attorney, BARBARA J. CLINITE, and pursuant to the Federal Rules of Evidence and Federal Rules of Civil Procedure, moves this Honorable Court in limine for an Order precluding the Defendants, their attorneys, and witnesses, from placing before the jury any evidence, facts, argument, remarks or comments concerning the following:

> Whether there was any fault on the part of William Selmer, D.D.S. and/or Jacqueline Mitchell, D.D.S., and whether the Plaintiff should have sued them for his dental claims.

Liability on the part of named Defendants for the dental claim is predicated on their failure to assist Mr. Gevas in obtaining treatment for his abscessed tooth. Underlying that is the fact that Dr. Selmer and Dr. Mitchell had not promptly scheduled him to return for extraction of the molar, and that the named Defendants knew that. Thus, it is no defense to the claims against the named Defendants that Dr. Selmer and Dr. Mitchell failed to promptly arrange for the dental care. Therefore, it is irrelevant whether Dr. Selmer and Dr. Mitchell were also at fault and/or should have been sued for the dental claims.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order precluding the defense from mentioning, commenting upon, arguing or otherwise conveying such facts to the jury, without first seeking leave of court outside the jury's presence.

Respectfully submitted,

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PROOF OF SERVICE

The undersigned, as attorney, hereby certifies that on JUNE 2, 2011 I caused to be electronically filed the Plaintiff's MOTION IN LIMINE NO. 5 with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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